THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.11333 of 2005

and

Contempt Case No.124 of 2006

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Dated:16.03.2006

WRIT PETITION No.11333 of 2005

Between:

B.Venkata Subba Reddy, S/o.Gopaiah.

..... PETITIONERS

AND

The District Collector, Kadapa District, Kadapa, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.11333 of 2005

and

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COMMON ORDER:

The petitioner is a resident of Singanavaripalli Village of Atluru Mandal in Kadapa District. He filed the writ petition, being W.P.No.11333 of 2005, seeking a writ of mandamus declaring the action of the respondents, namely the District Collector, Kadapa, the Revenue Divisional Officer, Rajampeta, and the Mandal Revenue Officer, Atluru Mandal, in laying the road on the petitioner's land in Survey No.746/04 of Muthukuru Village, without due process of law, as illegal and arbitrary. He also seeks a consequential direction to the respondents not to take up the work. When the writ petition was admitted on 17.05.2005, this Court directed the respondents not to dispossess the petitioner without following the due process of law. Alleging that the said order is disobeyed, the petitioner filed C.C.No.124 of 2006. When the same was listed, it was brought to the notice of this Court that the respondents have filed W.V.M.P.No.414 of 2006. Therefore, all the matters were directed to be listed. Today, though the interlocutory applications, being W.V.M.P.No.414 of 2006 and W.P.M.P.No.14519 of 2005, and the Contempt Case, being C.C.No.124 of 2006, are listed, the matter is heard finally and is being disposed of by this common order.

The petitioner claims to be the absolute owner of land admeasuring Acs.4.73 in Survey No.746/4 of Muthukuru Village. He alleges that the Revenue Divisional Officer, Rajampeta, conducted enquiry on a complaint given by the petitioner that one Naga Muni Reddy is trying to lay the road through the lands of the petitioner and other small farmers. After conducting enquiry, the Revenue Divisional Officer allegedly suggested to form a road near the petitioner's land and allotted 20 links of land for the purpose of laying down the road. According to the petitioner if the said road is laid, as suggested by the Revenue Divisional Officer, fifty small farmers would be benefited. However, the Mandal Revenue Officer made attempts to lay the road through the petitioner's land, though some of the small farmers of the Village obtained an injunction restraining the laying of the road. Therefore, the petitioner along with others made a representation on 09.05.2005 to the District Collector, Kadapa, in vain. Thereafter, the present writ petition is filed.

In the counter affidavit filed along with W.V.M.P.No.414 of 2006 as well as in the counter affidavit filed in C.C.No.124 of 2006, the case of the respondents, in brief, is as follows. The petitioner is also known as B.Venkata Subbaiah. He was assigned the land in Survey No.746/4 of Muthukuru Village under D.K.T patta. Condition No.17 provides that the land can be resumed by the Government for construction of Project or for any public purpose. As the land was required for laying down the road for the benefit of the farmers, including the petitioner, notice was issued to as many as thirteen farmers in the locality. All of them received the notices, but the petitioner refused to receive the notice. Therefore, the notice was published by substitute service and an extent of Ac.0.20 cents in Survey No.746/4 (which was assigned to the petitioner) was resumed for laying down the road. The allegation that the road is being laid to benefit Naga Muni Reddy, is denied. It is also stated that in the suit filed by the petitioner, being O.S.No.77 of 2004, on the file of the Court of the Junior Civil Judge, Sidhout, a decree was passed against the Gram Panchayat, but the suit was dismissed as against the District Collector, Kadapa, and the Mandal Praja Parishad Development Officer, Atluru.

The learned Counsel for the petitioner does not dispute the legal position regarding Condition No.17 in the D.K.T patta. He only submits that even if the land is to be resumed, the respondents are required to give notice, and in the absence of any such notice, the action is unsustainable. **Per contra,** the learned Assistant Government Pleader for Revenue (Assignments) has placed before this Court, the Xerox copies of the notices issued to various farmers and the Village proposing to resume the land, which would belie any submission that there was no notice. Further, it is brought to the notice of this Court that on the notice issued to the petitioner, the Village Servant endorsed that the petitioner refused to receive the notice, and therefore, it was displayed on a pole near the land in Survey No.746/4. The learned Counsel for the petitioner, however, submits that as per the statement given by the Village Servant, no notice was issued to him for service, and therefore, a presumption cannot be drawn. He relied on the submission in the reply statement filed and signed by the learned Counsel for the petitioner himself. In the absence of any affidavit by the petitioner, denying the counter averments, no importance can be given to the statement filed by the learned Counsel for the petitioner.

After perusing the record placed before this Court, which is filed along with the Counter affidavit in the Contempt Case, this Court is convinced that the respondents acted fairly and issued notice to all the persons/assignees, whose land was resumed. This Court has also reason to believe that the petitioner refused to receive the notice and filed the writ petition to prevent the laying of the road. Now that the road is already laid or most part of the road is laid, petitioner's remedy lies in claiming the compensation for the land resumed. In this Writ Petition, no relief can be granted.

Therefore, the Contempt Case and the Writ Petition are accordingly dismissed. No costs.

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(V.V.S.RAO, J)

16.03.2006

vs